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# **The Duties We Have to Future Generations? A Gewirthian Approach**

Deryck Beyleveld

Professor of Law and Bioethics, Durham Law School, Durham University, Palatine  
Centre, Stockton Road, Durham, DH1 3LE, United Kingdom.  
deryck.beyleveld@durham.ac.uk

## **Introduction**

Current population growth, use of natural resources, carbon emissions, and the like, are threatening to produce much poorer living conditions for future generations (agents who do not yet exist and will not exist during our lifetimes) unless we alter our actions radically. Avoidably inflicting such conditions on our contemporaries would violate their rights. But do we have duties not to inflict these conditions on future generations?

The claim that we do is open to challenge on a number of grounds.

For example, it is not certain that future generations will share our view about what they have rights to because we cannot reliably predict the preferences they will have or the interests they will consider important enough to merit rights-protection. This may be called the “challenge from epistemic uncertainty”.

More fundamentally, is it even coherent to think that future generations *can* have rights against us on account of the “non-identity problem” (e.g., Parfit 1987)? In order for an agent (Agnes) to violate the rights of another agent (Brian) by doing X, Agnes’ action must harm Brian by violating a duty she owes *to Brian*. So, because “ought” implies “can”, for Agnes to have a duty not to do X, she must be able to do something else (Y) that will not harm *Brian*. Those who invoke the non-identity problem claim that, *where Brian is a future agent and Agnes is a current agent*, it is impossible for Agnes to do anything *to Brian* that will not harm him in this way. Suppose that, because Agnes does X, Brian will be harmed in a way that Agnes may not harm Cynthia (a contemporary of Agnes). Suppose that Agnes can and does do Y instead of X, with the result that no future agents will be harmed in the way that Brian will be harmed by Agnes doing X. The objection (on grounds considered in Part Three IV below) is that if Agnes does anything other than X, Brian will not exist. Therefore, Agnes cannot do anything that results in Brian existing and not being harmed by Agnes. Consequently, Agnes cannot have a duty *to Brian* to do Y rather than X. So Brian cannot have a right that requires Agnes to do Y.

My general aim is to elucidate why, using Alan Gewirth’s Principle of Generic Consistency (PGC) (see Gewirth 1978), we must recognize duties to future generations on account of the rights they will have.

The chapter has three Parts. Part One outlines what the PGC prescribes. Part Two outlines two arguments for using the PGC to address practical issues in general, but will not defend these arguments in any detail as that has been done elsewhere (see, especially, Beyleveld 1991 and Beyleveld 2011; also, e.g., Beyleveld and Bos 2009, Beyleveld 2013a and 2013b). Part Three discusses the application of the PGC to the issue of duties to future generations. It also explains how the PGC counters, *inter alia*, the challenge posed by epistemic uncertainty and the non-identity problem.

## **Part One: The PGC**

The PGC grants “generic rights” (GRs) to “agents”, and only to agents. Agents are characterized by having the capacity and disposition to do things in order to achieve purposes they have chosen, which they regard as reasons for their behaviour. The GRs are rights to generic conditions of agency (GCAs). GCAs are conditions agents need in order to be able to pursue any purposes whatsoever or to pursue them with any general chances of success. Thus, being deprived of a GCA will have at least some negative impact (either immediately or if prolonged) on the ability of an agent (e.g., Albert) to act at all or to act successfully *regardless of the purposes that Albert is pursuing or might pursue*. GCAs are essential or categorical *instrumental* requirements of action, needs shared by all agents regardless of their circumstances (i.e., needs for action that Albert has simply by virtue of being an agent). Life itself, mental equilibrium sufficient to permit Albert to move from merely wanting to achieve something to doing something to achieve it, health, food, clothing, shelter, and the means to these, freedom of action, the possession of accurate information, and the keeping of promises made to one by others, are all examples of GCAs (see Gewirth 1978, 53-5).

Because Albert needs assistance to defend having the GCAs when he cannot do so by his own unaided efforts as much as he needs non-interference with his possession, the GRs are both positive and negative. Because the GCAs are means for Albert to pursue/achieve his purposes, he is required to defend having them only for those purposes he chooses to pursue. For this reason, the GRs are rights under the will-conception of rights, which is to say that they are rights to possess the objects of the rights (the GCAs) *in accordance with the right-holder's will*. The PGC does not require Albert to value having the GCAs as an end in itself, but only as essential means for him to act/act successfully. In other words, *in* any action or intention to act, Albert categorically ought to defend having the GCAs; but he is not categorically bound to defend continuing to be able to act outside of the context of currently acting or intending to act. The GRs are also ordered according to how needful they are for agency (see Gewirth 1978, 338-54, esp. 343-50), measured by how drastic the negative generic effects of being deprived of them are on Albert's ability to act at all/act successfully. Gewirth distinguishes between basic rights (to the conditions needed to act at all, like life), non-subtractive rights (to the conditions needed to maintain an ability to act successfully, like accurate information) and additive rights (to the conditions needed to improve Albert's ability to act successfully, like further

education) (see Gewirth 1978, 53-5). Within these categories, GRs can also be ranked according to how extensive or immediate the negative generic effect of deprivation of the GCA would be on action/successful action. Gewirth generally refers to the GCAs under the headings of “freedom and well-being” (see 1978, *passim*). But the argument for the PGC is best conducted in terms of the wholly abstract idea of a GCA, with concrete specification of the GCAs and how they are ordered being left to application of the principle. *In concreto*, what constitutes a GCA can vary according the contingent circumstances and characteristics of the agent. So if aquatic agents exist, air will not be a GCA for them as it is for us. Also, what can impact on an agent’s GCAs can vary. So, for example, a tall agent might not need a ladder to reach food, whereas a shorter agent might. Energy for the body (food) is a GCA for all agents; but how possession of this GCA is affected can vary from one agent to another in a number of different ways and for a number of different reasons. Judging the importance of a GCA according to the hierarchy of needfulness for agency is also attended by numerous complexities, which are beyond the scope of this paper to deal with comprehensively (but see further Beyleveld 2011).

## **Part Two: Why Use the PGC?**

Gewirth himself argues that the PGC is categorically binding on agents because it is “dialectically necessary” for them to accept it. “It is dialectically necessary for Albert to accept the PGC” *means* “If Albert denies that he ought to act in accord with the PGC, he fails to understand what it is for him to be an agent, and by implication denies that he is an agent”. In effect, Gewirth tries to show that Albert cannot think coherently of himself as *an* agent if he thinks that he may act in ways that are inconsistent with the PGC.<sup>1</sup> As well as supporting this argument (see, especially Beyleveld 1991, Beyleveld and Bos 2009, and Beyleveld 2013a), I have also argued that anyone who considers that all agents must be treated impartially (i.e., with equal concern and respect for their agency), which includes anyone who accepts that there are human rights as these are conceived by the Universal Declaration of Human Rights 1948 (UDHR) and international legal instruments that are designed to give effect to the UDHR, must accept the PGC as categorically binding (see, especially, Beyleveld 2011). The first argument is more ambitious because, if valid, it renders it dialectically necessary for agents to accept the impartiality premise contained within the idea of human rights, which the second argument cannot do, and does not purport to do, as it presumes impartiality. However, if the second argument is sound, any system or theory of norms that incorporates the impartiality premise must be construed as governed by the PGC. The second argument, thus, purports to establish that there is a rationally required convergence over a prescriptive content that all normative theories and systems incorporating the impartiality premise must accept, even though they might vary over the epistemic status they grant to this content. In other words, the first argument is directed at showing that the PGC is the supreme principle of practical reason generally, whereas the second is directed at showing that it is the supreme principle of

morality (defined as a set of categorical binding impartial requirements on action) as well as the supreme principle of human rights.

### *First Argument*

The PGC is dialectically necessary for agents if three propositions are necessarily true:

1. It is dialectically necessary for Albert to accept the Principle of Hypothetical Imperatives or Instrumental Reason (PHI), “If doing Z (or having P) is necessary to pursue or achieve an Albert’s chosen purpose E, then Albert ought to do Z (or act to secure P) or give up trying to pursue or achieve E”.
2. There are GCAs.
3. Dialectically necessary principles are universal (i.e., “objective” or “impartial” principles).

From 1&2 it follows that

4. It is dialectically necessary for Albert to accept, “I (Albert) categorically *instrumentally* ought to defend my having the GCAs”, which is equivalent to it being dialectically necessary for Albert to accept “I (Albert) ought to defend my having the GCAs, *unless I am willing to accept generic damage to my ability to act*”.

From 3&4 it follows that

5. It is dialectically necessary for Albert to accept “I (Albert) ought to respect Brenda (any other agent) having the GCAs unless she is willing to accept generic damage to her ability to act”, which is equivalent to it being dialectically necessary for Albert to grant Brenda the GRs under the will conception of rights, which is for Albert to accept the PGC.

Since Albert stands for any agent, it follows that the PGC is dialectically necessary for all agents.

Proposition 3 is the most (and very highly) contested of the three key propositions, but also the only one that many philosophers would wish to contest. Establishing its validity rests on establishing that if it is dialectically necessary for Albert to accept that he ought to do Z or have P then it is dialectically necessary for Albert to accept that the sufficient reason why he ought to do Z or have P is that he is an agent, from which it follows logically that Albert must hold that Brenda ought to do Z or have P, where “Brenda ought to do Z or have P” has the same normative force for Albert as it does for Brenda, because what makes Brenda an agent is the same as what makes Albert an agent.<sup>2</sup>

### *Second Argument*

This argument rests on the necessary truth of propositions 1 and 2 of the first argument, but does not attempt to establish the truth of proposition 3. It argues that, given the truth of 1 and 2, anyone who accepts that agents ought to be treated with equal concern and respect for their agency must accept the PGC, on pain of giving up this impartiality premise. This is clearly the case, because if Brian holds that he ought to act out of respect for Brenda's need for the GCAs as much as he is required to act out of respect for his own need for the GCAs, then he must grant her the GRs.

From this it follows that any theory, such as utilitarianism, contractualism, or discourse theory, that incorporates such impartiality, must either accept the PGC's commands, or disassociate itself from this impartiality. This does not, of course, mean that these theories must hold that the PGC is dialectically necessary. The required commitment to the PGC secured by this argument is only as strong as the justification offered for the impartiality assumption. But, *given a commitment to the impartiality assumption*, commitment to the PGC cannot be resisted coherently if it is dialectically necessary for Albert to accept the PHI and there are GCAs.

This has implications for those who hold that there are human rights as currently conceived in international law. This is because the Preamble of the Universal Declaration of Human Rights 1948 (UDHR), specifies that all "members of the human family", all "human beings", and all "human persons" are equal in inherent dignity and inalienable rights, and Article 1 UDHR proclaims

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

If all human beings are equal in dignity and rights then all human *agents* (those humans endowed with reason and conscience) are equal in dignity and rights. Since the GCAs are necessary to do anything, they are also necessary to exercise any human right. So a grant of a human right to do anything can only be sincere if it involves a grant of a human right to possess the GCAs. Given the dialectical necessity of the PHI, since human agents are to act towards one another in a spirit of brotherhood, they must accept not only that they categorically ought to defend their own possession of the GCAs unless they are willing to accept generic damage to their ability to act, but also that they categorically ought to respect the possession of the GCAs by every other human agent (unless the other human agent is willing to accept generic damage to his or her ability to act). *Therefore* they must act in accordance with the generic rights of all human agents as understood by the PGC. It follows, *on pain of denying that all human beings are equal in dignity and inalienable rights*, that those who accept and implement the UDHR categorically ought to consider that all permissible action must be consistent with the requirements of the PGC. *Ergo*, all agents purporting to interpret and implement the UDHR, *and all legal instruments purporting to give effect to the UDHR*, must do so in accordance with the PGC. Even though the UDHR is not itself a legally binding instrument, legally binding instruments such as the International Covenant on Civil and Political Rights and the European

Convention on Human Rights (ECHR) make it clear in their preambles that they exist to give effect to the UDHR. They can only do so on the understanding that it is rights of the UDHR *as conceived by the UDHR* that they are giving effect to. In this sense, the dialectical necessity of the PHI entails that the PGC is the supreme principle of human rights.<sup>3</sup>

### **Part Three: Rights of Future Generations**

The following considerations/principles, some of which have already been mentioned, are important when applying the PGC to the question of rights of future agents.

I. *All agents have the GRs equally in a strictly distributive rather than in an aggregative manner.* Thus, the strength of a right claim is unaffected by the number of current agents compared with the number of future agents. Certain forms of utilitarianism imply that there is more utility or disutility when there are more agents than when there are fewer agents and that the aggregated utility or disutility of a larger group counts for more than that of a smaller group, from which it follows that if there are more agents in the future than there are now then their claims to a particular GCA will outweigh our own. No such claims can be made under the PGC.

At the individual level, conflicts between the GRs of agents are to be dealt with by using the criterion of needfulness for action. Although numbers do not matter in this *per se*, they can have a distributive effect. So, for example, I might (depending on my wealth and the value of the euro in relation to it) be duty bound to give up 5 euros to help a starving man. But I cannot give up 5 euros to more than a very limited number of starving people without ending up starving myself. But the PGC requires me to give the same weight to my need for the GCAs as to others' need for GCAs. It does not, therefore, require me to starve myself for others, though it will let me do so voluntarily (unless my doing so negatively impacts on the possession of the GCAs of yet other agents against their will). For this reason, application at the group level imposes duties on states and other groups rather than on individuals (see Gewirth 1978, 312-7). This will classically be the case with the problems with which the rights of future generations are concerned.

II. *Agents have positive duties, not merely negative ones, to other agents.* However, because assisting others to protect their GRs can impose a burden on one's ability to protect one's own GCAs in a way that merely refraining from interfering with the GCAs of others does not, these burdens will often require collective action, and cannot be imposed on all individuals equally.

III. *Because the GCAs must be valued only categorically instrumentally, agents have no intrinsic duty to preserve their own existence.* Consequently, Albert can only have duties to preserve his own existence if the required actions are instrumental to carrying out his duties to other agents. So, if he is a father with responsibilities to support members of his family, he may not commit suicide if this will result in them suffering serious damage to their GCAs against their will.

When applying this aspect of the PGC, it is important to appreciate that the fact that the GRs are rights under the “will” or “choice” conception of a right is not contradicted by the fact that they are rights to specific interests (the GCAs). What is characteristic of the will conception, as against an interest conception, is that the right-holder’s right imposes a duty on other agents to respect what the right-holder has a right to in accordance with the right-holder’s will. While the *content* of the GRs is provided by the GCAs, the *form* of these rights (their nature *as rights*), is determined by the way in which the claim to the GRs is justified, and this (via the dialectical necessity of the PHI) places action in accordance with the right-holder’s interests under the control of the right-holder’s will.

It follows, because Albert has a duty to treat Brenda in the same way in which it is *dialectically necessary* for him to wish to be treated himself, and so has no intrinsic duty to maintain his own existence (the PGC not supporting, or resting on, the claim that agents categorically ought to exist or be brought into existence),<sup>4</sup> that agents (like Agnes) do not have duties to bring other agents (like Brian) into existence unless this is necessary to maintain the GRs of other existing agents (like Cynthia) in accordance with their will.

Regarding our duties to future generations, this has an important consequence: absent other considerations, current generations must ensure that they do not act now so as to leave future generations worse off in relation to the GCAs than they themselves are or else act to ensure that there are no future generations.<sup>5</sup>

But other considerations cannot be ignored. For example, there is continuity between current generations and future generations, because future generations need to be brought up by previous generations. Also members of the current generation were not born, and are not expected to all die, at the same time. Consequently, it is not possible to make decisions about the existence of future generations that do not impact on the rights of members of the current generation.

This suggests an argument for duties to protect the GCAs of future generations. Agnes must grant Cynthia (who, let us suppose, is younger than Agnes and will survive her) the GRs. Cynthia, similarly, must grant the GRs to Brian, who (let us suppose) will be born while Cynthia is alive but after Agnes dies. Consequently, Cynthia will have duties to respect Brian’s possession of the GCAs that only Brian can release Cynthia from. Now, if Agnes acts so as to leave Brian in a position that impairs his ability to enjoy the GCAs, she will interfere with Cynthia’s ability to comply with Cynthia’s PGC derived duties to protect Brian’s GRs (which the PGC imposes on Cynthia because she is an agent). It follows that Agnes must accept a duty to respect Brian’s possession of the GCAs. Otherwise he will fail to respect Cynthia as an agent in the way that the PGC requires.<sup>6</sup>

IV. *What about the non-identity problem?* The argument just given is, essentially, to the effect that we must accept duties to future generations in order to respect the rights of those members of society who are/will be both our contemporaries and the contemporaries of (what to us are) future generations. As such, it might be said, it does



not address the Non-Identity Problem if this is restricted to the claim that we cannot have duties that are owed directly to future generations for their own sakes.

Perhaps, but there are problems with the non-identity problem.

To begin with, this problem only arises if we have good reason to suppose that if Agnes does not do X (doing X being something that will place Brian in a GCA disadvantaged position) then Brian will not exist. This is highly questionable. This presumption derives from thinking that reasoning that applies in “wrongful life” scenarios can be generally applied. A classical wrongful life scenario is one where a child has inherited a severe genetic condition from his parents, which could have been avoided by the mother having an abortion, and now wishes to claim damages against the mother. Here, the premise of the non-identity problem clearly applies. The mother could not have prevented the child from having this condition unless she ensured that the child would not be born. The premise also has some plausibility if extended to the case of a child raising a complaint against her mother for being damaged by the drinking or smoking habits of her mother during pregnancy. The union of a particular sperm and egg has an extremely low probability and is sensitive to very tiny changes in circumstance. Hence, it is not implausible to think that if the mother had changed her drinking and smoking habits so as to bring it about that any child she conceived would not be damaged in the way that her daughter is complaining about, her daughter would not have been conceived at all. But, for this reasoning to apply to the question of rights of members of future generations, we must accept the claim that if Agnes does anything other than X then Brian will never exist even if Brian is not a descendant of Agnes. At the very least, we must suppose that if sufficient people alter their behavior so as bring about better life and social conditions for future generations then all the members of future generations will be different from those who will exist if they do not alter their behaviour. This is very implausible and it needs to be a necessary truth to render *incoherent* the idea of rights of future generations held against us.

However, the PGC framework does not need to rely on such speculative counter-arguments or caveats. From the perspective of the PGC, the non-identity problem rests on a fundamental misconception about what a GR or a human right is, and in particular about what the conditions are for Brian to hold a right against Agnes (or any other agent). Under the PGC, Brian is not granted the GRs because he is *Brian*. He is granted the GRs simply because he is an agent; and what makes him an agent is just what makes any and every agent an agent. Because the GRs are to be accorded on the basis of possession of agency, the agency of every agent is to be respected as the ground of the GRs. If “dignity” refers to the ground of the generic rights, then to damage the agency of one agent against that agent’s will is an affront to the dignity of every agent. This is so whether the PGC is justified on the basis of the wholly dialectically necessary argument or merely on the argument from human rights. Given the dialectical necessity of the PHI, holding that human agents have rights simply by virtue of being human, also leads to the conclusion that agency is the ground of human rights (hence, that in which human dignity resides). It is, consequently, simply irrelevant whether Agnes’ actions will result in Brian existing or some other agent existing instead. Actions of Agnes that foreseeably threaten

possession of the GCAs of any agents who will exist in the future more than alternative actions she can perform threaten the GRs of future agents even if not performing these actions will mean that the population of future agents will be a completely different one. On the factual assumptions generating the non-identity problem, Agnes has a choice between GCA-threatening outcomes for Brian and GCA-respecting outcomes for, say, Margaret (who will exist instead of Brian), but not between GCA-threatening outcomes for Brian and GCA-respecting outcomes for Brian. But this is irrelevant, *even if it were necessarily true*. What matters is that Agnes, in choosing what will be a GCA-threatening outcome for Brian has chosen what she knows or should anticipate will be a GCA-threatening result for *an* agent. She has acted contrary to the dignity (the moral status) that agency confers.

V. *What of the challenge from epistemic uncertainty?* Allegedly, we cannot grant rights to agents who do not yet exist because we cannot know how they will like to be treated, what they will regard as important, and so on. But for this to be relevant it must be the case that GRs must be granted as a function of the contingent preferences, choices, etc., that agents make. But the GRs are functions of interests (the GCAs) that agents have simply by being agents. The GCAs are invariant. We know that an agent will need the GCAs just because the agent is an agent. So, regardless of the contingent preferences that the agent will have, or the contingent circumstances in which the agent will exist, an agent must be accorded the GRs as soon as the agent comes into being.<sup>7</sup>

VI. *GRs are unaffected by an inability to enforce them.* Any idea that Brian cannot have a right against Agnes because he cannot enforce his claim against her (because he will not exist while Agnes is alive) is alien to the PGC framework, which operates with a strictly normative as against positive conception of a right, which is to say that it distinguishes between the conditions for having a right and the conditions for enforcing a right.<sup>8</sup> Again, this is because agents have the GRs simply because they are agents.

Consequently, the fact that Agnes cannot now be in contact with Brian can no more affect that Brian holds the GRs against Agnes than the fact that Brenda and Albert (contemporaries) are not currently in contact with each other can affect that Brenda holds the GRs against Albert. That *an* agent will foreseeably be the recipient of my actions is all that matters. It does not have to be some particular agent, because, under the PGC any agent stands for all agents when what is at stake is possession of the GCAs.

So, if I am Robinson Crusoe and there is no one else around on my island, this does not mean that I do not have duties to other agents, simply because they are not around for me to interact with. If and when they (e.g. Friday) arrive on the island I will have to respect their generic rights. This will not be because their appearance on the island created these rights: Friday will have had these rights all along, which are rights to have his need for the GCAS respected if and when he becomes a recipient of my actions, which is to say when my actions impact on his GCAs.

But, to apply this to future generations, we need to imagine that while Friday is not present, Robinson is anticipating his *invited* arrival. Indeed, to make it closer still, we

should imagine that Robinson will have left the island before Friday arrives and will not be able to come back. The question to be asked is, “Must Robinson ameliorate his behaviour to ensure that (if/when) Friday arrives, Friday will be able to enjoy his GCAs?”

In general terms, the answer must be affirmative. If Robinson is not going to keep the island in a condition that enables Friday to have the GCAs, he should not have invited him there, or (if possible) should at least have warned him about the conditions that the island will be in when he arrives. The latter cannot, however, apply to future generations because they do not have a choice whether to be brought into existence or not.

VII. *Inequality between present and future generations must, in principle, be treated just like inequality within generations.* Again, this is because agents have the GRs simply because they are agents,

However, this does not mean that there are no differences between the ways in which we may act towards current and future generations. For one thing, if I have a generic need now, I have a prima facie right to attend to it. That I suspect that this will damage the GCAs of future generations, does not mean that I may not attend to it. If it is not implausible that science will find ways to ameliorate the effects of an overuse of relevant resources by the time that Brian comes into being, Agnes might be able to justify using current resources in a way that would leave Brian worse off than herself on the happenstance that *such innovation does not occur*. In other words, there are limits to the precautionary measures that we need to take to protect future generations. But we must be careful here. The situation is very different when we are talking about using resources to meet our basic needs from when we are talking about using them to meet merely non-subtractive, let alone, merely additive needs. It is one thing for Brazilians to chop down the Amazon rain forest *when and if they need to do so to make a living*. It is another for wealthy persons, already enjoying a lifestyle that fully satisfies basic needs (and more), to engage activities that threaten basic GCAs in order to further enhance their own quality of life.

VIII. *Wealthy current societies bear more responsibilities to future generations than do poorer societies.* This is for exactly the same reasons and in the same ways that they bear greater responsibilities to poorer current societies. The responsibilities go in two directions. They go in the direction of inhibition of further improving their own conditions (unless such improvement is not merely necessary but will be used to improve the lot of the less well off more than simply trying to redistribute existing resources more equally). John Rawls’ Maximin Principle is in line with this. They also go in the direction that the wealthier have a duty to contribute more to any redistribution of resources that is required.

However, this does not mean that poorer societies have no responsibilities to future generations. For example, in some poorer/traditional cultures, having many children is seen as a necessary means to ensure a decent level of existence in one’s old age. This has come about because of the very high mortality rates that are historically a feature of such

societies. Advances in medicine and the like have, however, led to a higher proportion of children surviving, thus putting greater burdens on resources. This renders the custom of having many children very counterproductive, and also illustrates that the application of the PGC cannot be reduced to a set of simple rules as against principles for consideration under the rubric of the PGC.

*IX. Agents have duties to respect the interests of apparent non-agents, even though the PGC grants the GRs only to agents*, the relevant interests being those of apparent non-agents that agents are able to respect that apparent non-agents would have rights to if they were agents, with the strength of these interests being proportional to how closely an apparent non-agent approaches being an apparent agent (see e.g., Beyleveld and Pattinson 2000; 2010). While this has no direct bearing on the rights of future generations, any duties to the environment that can be generated by such considerations impose duties on the current generation that require behaviour that reduces the likelihood of actions that will negatively impact on future generations (cf. Gewirth 2001, Düwell 2014).

## **Concluding Remarks**

In this chapter I have tried to explain the PGC and I have also sketched middle order principles and the general lines of thinking that come into play when trying to apply the PGC to the question of the rights of future generations. To flesh this out fully requires detailed case studies and scenarios for application and I have not put any of these forward for consideration.

I readily acknowledge that the arguments presented against objections to the idea of rights of future generations are not uniquely available to Gewirthians. They can and should be deployed by all moral theories that operate with the idea that there are rights that are possessed simply by virtue of being human or being an agent.

Indeed, not incompatible arguments are presented against the non-identity problem by, e.g., Baier (1981) and Bell (2011) in the specific context of anthropogenic climate change, while others have claimed, more broadly, that rights-based accounts assist with countering different versions of non-identity problems (e.g. Feinberg 1981, Woodward 1986, Elliot 1989, Elliot 1997, Partridge 1990).<sup>9</sup>

However, the Gewirthian approach is special in being grounded upon the strict rational necessity for agents of the PHI. This basis, whether or not it is extended to establish the PGC as dialectically necessary, or involves the additional presumption of impartiality inherent in the idea of a human right as currently conceived in international law (without arguing that it is strictly rationally necessary to accept that there are such human rights) provides a sufficient solution to the non-identity problem, even if the highly contestable factual premises driving this challenge are true. This is because such a grounding abstracts from all person-specific, individualistic aspects that give rise to the non-identity problem, while nevertheless starting from an agential perspective. Consequently, it retains the idea that immoral acts are acts that harm agents without relying on the notion

of “harming” in the sense of comparative harm or making a particular person/agent worse off. Similarly, it defuses the challenge from epistemic uncertainty by focusing the content of rights on GCAs that are interests necessarily held by all agents. This is because, at root, it sees a right, not as the product of contingent choices made, but as a logical consequence of the dialectical necessity of the PHI for agents.

Additionally, the PGC Framework, through the GCAs being the content of fundamental rights provides a rational procedure for adjudicating between conflicting rights that has the stringency of justification enjoyed by the PHI itself. And this has application within any theory of duties or rights.

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<sup>1</sup> This interprets Kant's claim that a categorical imperative is one "connected (completely a priori) with the concept of the will of a rational being as such" (1785, 4:426) (see Beyleveld 2013b).

<sup>2</sup> See, in particular, Beyleveld 2013a.

<sup>3</sup> See further Beyleveld 2011.

<sup>4</sup> The PGC does not require agents to treat others as *they wish* to be treated themselves, which would permit a sado-masochist to torture others against their will. The dialectical necessity of the PHI (the PGC being the universalization of the PHI, given recognition of the existence of GCAs) requires Albert to treat Brenda as Brenda *must wish* herself to be treated, which is to have her possession of the GCAs disposed of in accordance with her own will.

<sup>5</sup> However, because it will be impossible in practice to reach agreement on a decision not to have any children in the future, the latter option is not a realistic strategy to avoid responsibility for our actions in relation to future generations.

The fact that the Gewirthian approach operates with the will conception also does not create difficulties for its application to future generations on account of the fact that Agnes does not know whether Brian is prepared to suffer generic damage to his ability to act on account of her actions. Or, rather, the difficulty is no different from that faced by a doctor who is presented with an unconscious agent patient who needs life-saving treatment, for which the doctor ideally needs the patient's consent because the operation will affect the patient's GCAs. The rational solution is to presume that the patient wishes to be treated unless there is explicit evidence to the contrary (like an advance directive), not merely on the ground that most agents would wish treatment, but because (all things being equal) on the scale of degree of needfulness it is worse to fail to treat a patient who wishes life-saving treatment (the result is irreversible) than to treat a patient who does not wish life-saving treatment (the result is not necessarily irreversible: the patient could regain consciousness and refuse continued treatment).

<sup>6</sup> Compare the treatment of Gosseries (2008) of this kind of scenario. I owe reference to the scenario to Gerhard Bos at Utrecht, who has a slightly different take on it in as yet unpublished papers he has presented at conferences we have attended.

<sup>7</sup> However, although agents do not have a GR to their non-generic interests (their particular-occurrent interests) as such, they do have a GR to pursue their particular occurrent interests to the extent that this pursuit does not interfere with the GCAs of other agents. But interference with the particular occurrent interests of other agents is inevitable in social life. To deal with such conflicts, the PGC prescribes that agents must be given the right to have their views on the pursuit of their particular occurrent interests represented and decided upon in a democratic way. This raises questions about *how* future not yet existing agents can be granted this right (which must be separated from the question as to *whether* they must be granted this right), since we do not know what their particular occurrent interests and choices will be. This issue is addressed in Beyleveld, Düwell and Spahn (2015).

<sup>8</sup> It must, however, be recognized, as a point of fact, not as a normative principle, that the prospects of getting the current generation to honour its duties to future generations are even worse than those of getting it to comply with its intra-generational duties. To put it cynically, this is simply because future generations are not in any position to fight back.

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Disadvantaged members of the current generation may be at a disadvantage in fighting their cause; but they are not powerless. Members of future generations have absolutely no power to affect the actions of the current generation by their own actions, simply because they do not already exist. Future generations will just be stuck with what we leave them with and will not be able to hold us to account. For this reason, contractualism, particularly of the kind advocated by David Gauthier (1986) is in a very poor position to render itself consistent with the PGC.

<sup>9</sup> There is also a rich literature on the wrongful life case of Parfit's non-identity problem, discussing the moral and legal aspects of cases of children with diseases such as Huntington's disease or hereditary deafness (e.g., Harris 1990, Shiffrin 1999, Steinbock 2011).